REMARKS

Claims 1-24 remain pending in the application including independent claims 1 and 21. Please note that the examiner has not set forth any rejections concerning claim 19. Claim 19 recites that the at least two band-like, elastic plates have corresponding cross-sections as seen in a longitudinal section. Shimada clearly does not disclose or teach this feature. As such, applicant assumes claim 19 is allowable. **Applicant respectfully requests clarification of the status of claim 19.**

Claims 1-4, 11, 13, 17, 18, and 20 stand rejected under 35 U.S.C. 102(b) as being anticipated by Shimada (US 3942599). Claims 5-10, 12, and 14-16 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada alone. Claim 1 recites the feature of a plate holder with at least two band-like, elastic plates which are superimposed to form a stack and are able to move relative to each other on at least a part of their length.

The examiner argues that Shimada discloses two band-like, elastic stacked plates 11, 11a; however, element 11a does not comprise a stacked plate as defined in claim 1, and instead element 11a comprises cushion members (see Figure 3). The examiner argues that Figures 5-7 show plates 11, 11a that are superimposed to form a stack as the plates are arranged on top of each other. Element 11 comprises a heat insulating member that is mounted to the beam 12 through cushion members 11a. Cushion members 11a cannot be reasonably be interpreted to correspond to a band-like stacked plate as claimed.

Claims in a patent application are to be given their broadest reasonable interpretation, with this interpretation being consistent with the specification of the patent application (see, for example, In re Zletz, 893 F.2d 319,321; 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)). Further, the terms in the claims should be construed as one of ordinary skill in the art would construe them (see, for example, Specialty Composites v. Cabot Corp. 845 F.2d 981, 986; 6 USPQd 1601, 1604 (Fed. Cir. 1988)). Further, as discussed in Phillipps v. AWH Corp., 415 F.3rd 1303, 1315; 75 USPQ2d, 1321, 1327 (Fed. Cir. 2005), the claims do not stand alone and are part of a fully integrated written instrument with a specification that concludes with the claims. As such, the claims must be read in view of the specification, of which they are a part. Thus, the examiner's interpretation can be broad but it must be reasonable.

As set forth at Page 2, lines 1-5 of the subject application, the band-like stacked plates are defined as being a flat shape with a length that is considerably larger than its width, and a thickness that is considerably smaller than its width. The cushion members 11a clearly do not comprise a plate as claimed One of ordinary skill in the art would never interpret these cushion members 11a as corresponding to the claimed stacked plates. As Shimada does not disclose two band-like, elastic stacked plates, Shimada does not anticipate claim 1.

Further, claim 1 recites that the exhaust system bracket comprises a supporting element in the form of a plate holder with at least two band-like, elastic plates. The examiner argues that Shimada discloses a bracket 21a that comprises a supporting element 11 in the form of stacked plates 11, 11a. Element 21a comprises a bracket that is fastened to a side wall of 11. As discussed above, the cushion members 11a cannot be considered a stacked plate within the meaning of claim 1. Further, element 21a is not comprised of a supporting element 11, 11a in a stacked relationship. For this additional reason, Shimada does not anticipate claim 1.

Claim 2 recites that the supporting element, which is defined as being in the form of stacked plates, has an angular structure as seen in the longitudinal section. The examiner argues that this is shown in Figures 5-7. Elements 11 and 11 a have very different shapes from each other as shown in Figures 5-7, and as such, it is difficult to determine what exactly the examiner is identifying as a longitudinal section. Sections taken along the longitudinal length of the examiner's "plates 11, 11a" clearly do not have angular structures as defined in claim 2. As such, Shimada does not anticipate claim 2. For similar reasons Shimada does not anticipate claims 3-4.

Claim 11 recites that the plates have a smooth surface and claim 13 recites that the plates have a structured surface. The examiner argues that Shimada discloses plates with both of these surfaces but provides no indication of where this is disclosed. Applicant respectfully requests where the Shimada discloses that the examiner's stacked "plates 11, 11a" have two different types of surfaces.

Claim 17 recites that the supported element is fastened to the exhaust system with a console. The examiner argues that this is taught by Shimada, but again, offers no explanation of where this is disclosed. The examiner has argued that Shimada discloses an exhaust system bracket 21 comprising a supporting element of stacked plates 11, 11a. The examiner has not

identified where Shimada discloses a console that secures the examiner's supporting element to an exhaust system.

Claim 18 recites that the supporting element is fastened to the engine or gearbox with a bracket. The examiner argues that this is disclosed in Figure 1; however, Figure 1 discloses a different embodiment than that which the examiner has used as the basis for the rejection, i.e. Figure 1 discloses a different configuration than that set forth in Figures 5-7. Applicant respectfully requests an explanation of which bracket in Shimada is used to fasten the examiner's supporting element, i.e. 21a, 11, 11a, to the engine or gear box as claimed.

Claim 20 recites the feature of an additional bracket having a first end connected to at least one of the combustion engine and gearbox and a second end connected to the supporting element, and further recites that each plate of the supporting element has one plate end connected to the second end of the bracket and an opposite plate end connected to the exhaust system. The examiner argues that Shimada discloses a bracket 21a that has a first end connected to gearbox 5, 6 and a second end connected to the supporting element plates 11, 11a with each plate 11, 11a being connected to the second end of the bracket 21a and an opposite end connected to the exhaust system at 23.

The examiner has identified element 21a as being the exhaust system bracket that comprises the supporting element formed from plates 11, 11a. This element cannot also be the additional bracket as defined in claim 20 as the connection interfaces defined in claim 20 are not met by bracket 21a. Claim 20 requires that each plate have one plate end connected to the additional bracket and an opposite plate end connected to the exhaust system. The additional bracket connects to the gearbox or motor. How does bracket 21 have a first end that is connected to the gearbox 5, 6? The first end of this bracket has already be defined by the examiner as the supporting element itself.

Claim 5 recites that the supporting element has a helical structure. The examiner argues that the provision of a helical structure represents a change of shape that is well within the level of ordinary skill in the art. Applicant respectfully disagrees and asserts that the examiner's "plates 11, 11a" cannot be modified to include a helical structure. Shimada requires cushion elements 11a. How can these cushion elements be modified to comprise a plate with a helical structure as defined in claim 5? If cushion members 11a where replaced by a plate having a

helical structure as defined in claim 5, Shimada would fail to operate as intended. The proposed modification cannot render the prior art unsatisfactory for its intended purpose (see MPEP 2143.01 (V)) and cannot change the principle of operation of a reference (see MPEP 2143.01 (VI)). If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. In re Gordon, 7233 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). As such, the examiner's proposed modification cannot stand and claim 5 is allowable over Shimada.

Claims 21 and 22 stand rejected under 35 U.S.C. 102(b) as being anticipated by Aiba (US 4359126). Claim 21 recites the feature of a bracket having a first portion connected to an engine or gearbox and a second portion. The examiner argues that Aiba discloses a bracket 8 having a first portion connected to an engine 1. Claim 21 also recites the additional feature of a supporting element comprising a plurality of stacked plates, the supporting element having a first end connected to the second bracket portion and a second end connected to an exhaust component. The examiner argues that Aiba discloses a supporting element comprised of stacked plates referring to the material between element 4 and element 9.

First, this material cannot be considered as corresponding to the claimed stacked plates. Second, the examiner has already identified this material as being the "first bracket portion" that is connected to the engine. As such, this cannot also be considered the stacked plates to which bracket 8 is attached. This interpretation simply does not make any sense. Thus, claims 21-22 are not anticipated by Aiba.

Claims 21-23 stand rejected under 35 U.S.C. 102(b) as being anticipated by Ludecke et al. (US 4264344). Claim 24 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Ludecke alone. The examiner has argued that Ludecke teaches a supporting element comprised of a plurality of stacked plates, referring to elements 12. Elements 12 of Ludecke correspond to the vehicle frame (see col. 2, lines 9-12). One of ordinary skill in the art would never interpret the vehicle frame of Ludecke as corresponding to the claimed stacked plates of a supporting element. Claims 21-24 are clearly allowable over Ludecke.

Applicant respectfully asserts that all claims are in condition for allowance and requests an indication of such. Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in then name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

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